

ORIGINAL

1 DARREL J. HIEBER (SBN 100857)
dhieber@skadden.com
2 DANIEL M. RYGORSKY (SBN 229988)
drygorsk@skadden.com
3 SKADDEN ARPS SLATE MEAGHER & FLOM LLP
300 South Grand Avenue, Suite 3400
Los Angeles, CA 90071-3144
4 Telephone: 213-687-5000
Facsimile: 213-621-5600
5 Attorney for Defendant
6 FIFTH THIRD BANCORP

FILED

07 JUN 14 PM 4:22

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY *lp*

DEPUTY

7 UNITED STATES DISTRICT COURT
8 SOUTHERN DISTRICT OF CALIFORNIA

BY FAX

9 ANGELICA TENNENT, individually and
on behalf of all others similarly situated,
10 Plaintiff,
11 v.
12 THE TIX COMPANIES, INC., a Delaware
corporation, FIFTH THIRD BANCORP,
13 an Ohio corporation, and DOES 1 through
50
14 Defendants.

CASE NO. 07-CV-00484 WQH (BLM)

STIPULATION FOR EXTENSION OF
TIME TO RESPOND TO PLAINTIFF'S
AMENDED COMPLAINT AND
[PROPOSED] ORDER THEREON

Judge: Hon. William Q. Hayes
Courtroom: 4

STIPULATION

CASE NO. 07cv0484

1 WHEREAS:

2 1. The above-captioned action, filed by Plaintiff Angelica Tennent against Defendants
3 Fifth Third Bancorp ("Fifth Third") The TJX Companies, Inc. ("TJX"), and Does 1 through 50,
4 inclusive, is one of several related actions arising out of allegations that intrusions(s) into TJX's
5 computer system resulted in the theft of customers' information.

6 2. On February 8, 2007, the plaintiffs in one of the related actions, *Buckley v. TJX*
7 *Cos.*, No. 07-CV-10209 (D. Mass. filed Feb. 2, 2007), filed a motion with the Judicial Panel on
8 Multidistrict Litigation ("JPML") seeking the transfer and centralization of the related actions.
9 Attached hereto as Exhibit A is what Fifth Third understands to be a true and correct copy of the
10 motion for transfer and centralization pending before the JPML.

11 3. On March 16, 2007, Plaintiff filed this action in the United States District Court for
12 the Southern District of California and on May 30, 2007, Plaintiff filed its Amended Complaint.

13 4. On April 4, 2007, TJX filed a notice with the JPML identifying this action as a
14 potential "tag-along action" involving common questions of fact with the actions identified in the
15 pending motion for transfer and centralization. Attached hereto as Exhibit B is what Fifth Third
16 understands to be a true and correct copy of TJX's Second Notice of Potential Tag-Along Actions.
17 To Fifth Third's knowledge, there are now thirteen (13) related actions pending in federal district
18 courts in Alabama, California, Massachusetts, and Puerto Rico.

19 5. On or about April 29, 2007, this Court granted TJX an extension of time to respond
20 on terms identical to those here stipulated as to Fifth Third.

21 6. Fifth Third supports transfer and centralization of the related actions.

22 7. Because the related actions involve common questions of fact, Fifth Third and
23 Plaintiff anticipate that transfer and centralization will be ordered by the JPML.

24 8. The JPML held a hearing on the motion for transfer and centralization on May 31,
25 2007.

26 9. In light of the motion for transfer and centralization pending before the JPML, and
27 the previous stipulation extending time for TJX to respond in this action, Fifth Third and Plaintiff
28

1 agree that extending the time for Fifth Third to respond is appropriate to promote the efficient
2 resolution of this action.

3 NOW, THEREFORE, Fifth Third and Plaintiff stipulate that the time for Fifth Third to
4 answer, plead, or otherwise respond shall be extended to the latest of: (a) ten (10) days after the
5 JPML decides the pending motion for transfer and centralization, (b) if the motion is granted, ten
6 (10) days after the transferee court enters a consolidated scheduling order, or (c) ten (10) days after
7 TJX is served with Plaintiff's Amended Complaint.

8
9 DATED: June 12, 2007

10 SKADDEN ARPS SLATE MEAGHER & FLOM LLP

11 By: 

12 DARREL J. HIEBER
13 One of the attorneys for Defendants
14 FIFTH THIRD BANCORP

15 Of Counsel:

16 W. Breck Weigel, Esq.
17 Vorys Sater Seymour and Pease LLP
18 221 East Fourth Street, Suite 2000
19 Cincinnati, Ohio 45202

20 DATED: June 11, 2007 HARRISON PATTERSON & O'CONNOR

21 By: 

22 JAMES R. PATTERSON
23 One of the attorneys for Plaintiff
24 ANGELICA TENNENT
25
26
27
28

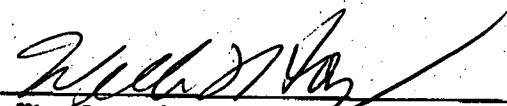
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AND ORDER THEREON

The time for Fifth Third Bancorp to answer, plead, or otherwise respond shall be extended to the latest of: (a) ten (10) days after the JPML decides the pending motion for transfer and centralization, (b) if the motion is granted, ten (10) days after the transferee court enters a consolidated scheduling order, or (c) ten (10) days after Fifth Third is served with Plaintiff's Amended Complaint.

IT IS SO ORDERED.

DATED: 6/14, 2007


The Honorable William Q. Hayes
Judge of the District Court

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I, the undersigned, declare that: I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the instant case. My business address is 300 South Grand Avenue, Suite 3400, Los Angeles, California 90071.

On June 12, 2007, I served the foregoing documents described as:

- (1) **STIPULATION FOR EXTENSION OF TIME TO RESPOND TO PLAINTIFF'S AMENDED COMPLAINT; AND**
(2) **[PROPOSED] ORDER**

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

☒ (BY U.S. MAIL IN THE ORDINARY COURSE OF BUSINESS) I am readily familiar with the firm's practice for the collection and processing of correspondence for mailing with the United States Postal Service and the fact that the correspondence would be deposited with the United States Postal Service that same day in the ordinary course of business; on this date, the above-referenced correspondence was placed for deposit at Los Angeles, California and placed for collection and mailing following ordinary business practices.

☐ (BY FEDERAL EXPRESS) I am readily familiar with the firm's practice for the daily collection and processing of correspondence for deliveries with the Federal Express delivery service and the fact that the correspondence would be deposited with Federal Express that same day in the ordinary course of business; on this date, the above-referenced document was placed for deposit at Los Angeles, California and placed for collection and delivery following ordinary business practices (as noted).

☐ BY FACSIMILE I am readily familiar with the firm's practice of facsimile transmission; on this date the document was transmitted by facsimile transmission and that the transmission was reported as complete and without error and that the attached transmission report was properly issued by the transmitting facsimile machine (as noted).

☐ (BY PERSONAL SERVICE) ☐ By personally delivering copies to the person served.
(STATE/FEDERAL)

☐ I caused such envelope to be delivered by hand to the offices of the addressee pursuant to CCP § 1011. (STATE/FEDERAL)

I declare under penalty of perjury under the laws of the State of California and the United States of America that the above is true and correct.

Executed on June 12, 2007 at Los Angeles, California.


Dwight Hines

SERVICE LIST

Attorneys for Plaintiff

JAMES R. PATTERSON
HARRY W. HARRISON
HARRISON PATTERSON & O'CONNOR LLP
402 West Broadway, Suite 1905
San Diego, CA 92101
Telephone: (619) 756-6990
Facsimile: (619) 756-6991

JAMES M. LINDSAY
GENE J. STONEBARGER
LINDSAY & STONEBARGER
A Professional Corporation
620 Coolidge Drive, Suite 225
Folsom, CA 92630
Telephone: (916) 294-0002
Facsimile: (916) 294-0012

Attorneys for Defendant Fifth Third Bancorp

W. BRECK WEIGEL
VORYS, SATER, SEYMOUR AND PEASE LLP
221 East Fourth Street
Suite 2000, Atrium Two
P.O. Box 0236
Cincinnati, OH 45201
Telephone: (513) 723-4000
Facsimile: (513) 852-8448

Attorneys for Defendants TJX Companies, Inc. and Bob's Stores Corp.

CARY B. LERMAN
TERI-ANNE E. NAGATA
MUNGER, TOLLES & OLSON LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071-1560
Telephone: (213) 683-9100
Facsimile: (213) 687-3702

MARK P. SZPAK
ROPES & GRAY LLP
One International Place
Boston, MA 02110-2624
Telephone: (617) 951-7000
Facsimile: (617) 951-7050